Before the
Federal Communications Commission
Washington, D.C. 20554

	)	
In the Matter of	)	
	)	FCC 06-109
Pleading Cycle For	)	
Eligible Services List For	)	
Universal Service Mechanism	)	CC Docket No. 02-6
For Schools and Libraries	)	
	)	

COMMENTS OF THE
COUNCIL OF THE GREAT CITY SCHOOLS

The Council of the Great City Schools, the coalition of 66 of the nation's largest central-city school systems, requests the consideration of the following comments in response to the Commission's July 21, 2006 Public Notice on the Universal Service Administrative Company's proposed list of eligible services for the E-Rate program (FCC 06-109; CC Docket No. 02-6).

The Council of the Great City Schools appreciates the efforts of the Commission to improve and streamline the E-Rate program, reduce mistreatment of the program's support, and ensure the distribution of intended benefits to the neediest schools and libraries. The E-Rate program has no greater advocate than our city school systems, which enroll the highest number of disadvantaged children, employ the largest number of teachers, and occupy the greatest number of school buildings. Specifically, the 66 school districts in the Council represent approximately 7.4 million urban students, including 30% of the nation's minority students, 31% of the nation's English Language Learners, and 28% of the nation's children eligible for free and reduced-price lunch. The value of universal service is immeasurable for these students and the inner-city, where the E-Rate can be used to bolster

shallow resources and enhance the delivery of modern educational instruction.

Introduction

In our comments to the Commission's Notice in 2005, the Council noted that the two critical areas of improvement to address in the E-Rate program were timing and communication. While issues of timeliness have not significantly changed, we want to make special note of the efforts of the Universal Service Administrative Company (USAC) and the Commission to improve communications with the applicant community. The Commission has issued a number of appeal decisions affecting a broad swath of schools and libraries, and is working hard to reduce the backlog of other appeals awaiting action. USAC has also taken numerous steps to improve communications with the applicant community, through conference calls, regional trainings, and as a recent example, a focus group dedicated to simplifying the eligible services list. The outreach to urban school districts in the past year has been significant, and while additional work is needed in all areas, the efforts have been notable and appreciated.

General Comments
The Funding Year 2007 draft Eligible Services List (ESL) includes language at the end of each section which notes that products and services not included in the ESL are presumed to be not eligible by USAC. The Council appreciates the efforts to provide a clear and easy-to-understand list of eligible services, but has long argued that such a list must not be considered exhaustive, nor should strict adherence to the list be a requirement. If used as a guiding document only, USAC's decisions, as well as their ability to update the guidance, are less likely to become subject to repeated questioning and repeated appeal. For applicants that wish to play it safe, they are welcome to follow the guidance strictly, and the application process can proceed quickly. However, applicants should also be able to use the lists solely as a guide, and proceed outside the boundaries of the ESL with the expectation of follow-up questions from the Administrator. While numerous commenters in the past have indicated that any ESL must not be considered comprehensive, the language in the 2007 ESL gives the appearance that observance to the ESL's products and services must be absolute.

The Council also raises concerns regarding the statement in the Additional Reference Information section, which indicates that USAC will not fund requests that require cost allocation if no cost allocation is provided. A primary concern is that the ESL appears to be clear in stating what requires cost allocation, but in practice, SLD reviewers have commonly requested cost allocation for items that do not have ineligible items as part of their costing

structure. This contradiction between a historical practice and explicit policy will add to the confusion of applicants, and requires additional clarification and reconciliation.

An additional concern with the cost allocation statement is the negative impact it may have on efforts to reduce applicant burden and streamline the program. While this decision may assist the Administrator in expediting their funding decisions, there is an added responsibility for the school to do additional work up-front, as well as additional tasks for the service provider to offer pricing for a specific request that includes cost allocations. In certain situations, the school will need to inform the service provider if specific portions of an overall project are for E-Rate purposes, and will require the provider to have the ability to effectively cost-allocate ineligible products in their response. While the intent of the cost allocation statement is to speed up the application review process, the additional time requirements placed on the applicants, as well as the increased likelihood of post-decision appeals to the FCC, are looming consequences of such an action.

Overall, the ESL document is an improvement in clarity, simplifies past versions, and the inclusion of items that are not eligible will be of tremendous assistance. The Council appreciates the Administrator's efforts to revise the 2007 ESL in a way that would be user-friendly to E-Rate newcomers that do not have years of experience in navigating the program's complex rules and requirements. We do note that someone new to the program may still be confused, however, when encountering the terminology of "Conditionally Eligible" or "Not Eligible." In previous years, it was clearer that certain items and services were "Eligible" and that certain conditions existed which would limit the eligibility. A return to this term and practice may be more beneficial, with the explicit stipulation that certain situations would affect final determination.

Telecommunications Services and Internet Access

<u>Auditable Systems for Portable Wireless Device Services</u>
The use of a portable email device has become not only commonplace, but often indispensable, in the American workplace. Regardless of the specific industry, employees and employers use devices such as the BlackBerry to increase operational efficiency and improve communication. In Washington, DC, staff in all three branches of government, and at varying levels of employment, have found that their work can not be completed without the use of such instruments. The benefits are also clear for education, as a BlackBerry-type tool allows principals and other officials to share information and communicate better among staff and with the public.

While current USAC rules state that such a device is eligible if an auditable system is in place to distinguish between eligible and ineligible usage, the SLD has never approved any such auditable system, rendering ineligible the technology that has been widespread for a number of years. Since the eligibility status of such devices does not appear to have changed with the 2007 ESL, it may seem that there is no cost differential or financial impact on school districts by leaving them ineligible. However, as more districts begin, or continue, to migrate from eligible wireless services to the increasingly common BlackBerry services, they put themselves at risk of losing funding that was previously available to them.

A related concern among urban schools is the decision to include certain paging services as eligible, but exclude text messaging as an eligible service. The ESL makes the assertion that services that are not classified as "telecommunications services" are not eligible, and includes text messaging in that classification. However, the rationale behind that specific classification appears vague, particularly since text messaging is a standard component of most cellular packages, making it difficult for applicants and service providers to prorate out the value of text messaging.

Eligible Locations
Another area where additional clarification is needed to aid applicants is the definition of "eligible location" for Internet Access and Telecommunications Services. For example, large urban districts may operate school programs and hold classes in a number of locations, yet officials remain unclear whether the district may provide an internet connection to students and teachers at a location that is leased, but not owned, by the school district (e.g. a charter school or GED program). Additionally, the ESL states that, "Services to ineligible locations, such as telephone service to residential facilities, are not eligible for discount." However, this definition may be problematic for school districts (or state education agencies) where classrooms and schools are operated in conjunction with healthcare facilities, children's homes, or adjudication facilities. In many urban school systems, the districts often enroll significant numbers of students in facilities such as these which are also residential. A literal reading of the ESL would exclude these locations from E-Rate services because they are "residential facilities." Alternate wording may help alleviate this situation and clarify eligibility for those applicants providing education at such facilities.

Additional Clarification
With the continued growth of Internet2 usage, more detail about the technology is needed in the ESL to avoid confusion. There are a number of costs associated with the use of Internet2, and some of these costs are eligible

for reimbursements, while others are not. Additional clarification to delineate the eligible and ineligible items would be useful in the ESL.

Also, the ESL places additional emphasis on the need for cost allocation of e-mail and web hosting services that include ineligible features, such as calendaring, lesson-planning aids, file storage, etc. Since many applicants are accustomed to purchasing packages for "managed web hosting," additional information will be useful for those districts that need to undergo an "unbundling" of services.

Internal Connections

Many of the specific clarifications made in the ESL are helpful in outlining funding availability for specific items, such as the section identifying a KVM switch as eligible, and components installed in standby mode as ineligible. Some additional clarification may be needed in the area of filtering, however, and whether the draft ESL prohibits the purchase of a software package to perform this action. New wording seems to clarify that a separately-priced content filtering product is not eligible, but filtering included as an integral component part of an eligible component is eligible. Additional detail is needed to help school districts determine whether filtering must be performed as an ancillary function for an already-eligible component, or whether distinct content filtering software would be approved as an eligible service.

Additional clarification may also be helpful when discussing wiring and components for radio or television broadcast. The ESL states that wiring and components providing electrical service for radio or television broadcast or cable services are ineligible, and if the cabling or cabling components are used for both eligible and ineligible purposes, the ineligible portion must be cost allocated. We believe the intent is to exclude conventional (i.e. coaxial-based) television distribution systems in buildings, and in isolation, there are no concerns. However, ambiguity does exist in that television content is often received at a central location, encoded in an IP protocol, and distributed over the same infrastructure – wiring, switches, routers – as other Internet communications. This type of content distribution has become a common and increasing practice. Additional clarification is needed to determine whether ineligibility is limited to the wiring and infrastructure dedicated to the single purpose of television distribution, or if eligibility will be granted when television content is only an incidental portion of the total content and network usage.

Basic Maintenance of Internal Connections

The indication in the FY 2007 ESL that software Client Access Licenses (CALs) are not eligible in the Basic Maintenance category, but may be eligible for reimbursements as Internal Connections, may cause problems for applicants. With this classification, school districts will not be eligible to have their CALs funded every year under Basic Maintenance, but must include this item for funding as part of Internal Connections, and are limited by the increasingly complicated 2-in-5-rule.

Conclusion

The Council appreciates the hard work of the Commission and the Administrator to ensure that E-Rate support remains available to communities across the country, while also adapting changes that keep the program's benefits safeguarded. We welcome the opportunity to assist in streamlining and simplifying the E-Rate's application and funding process, allowing school districts to maximize their time and efforts on improving student achievement.

Respectfully submitted,

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